

Draft Variance Authorization and MDV Rules

Water Quality Standards and Assessment

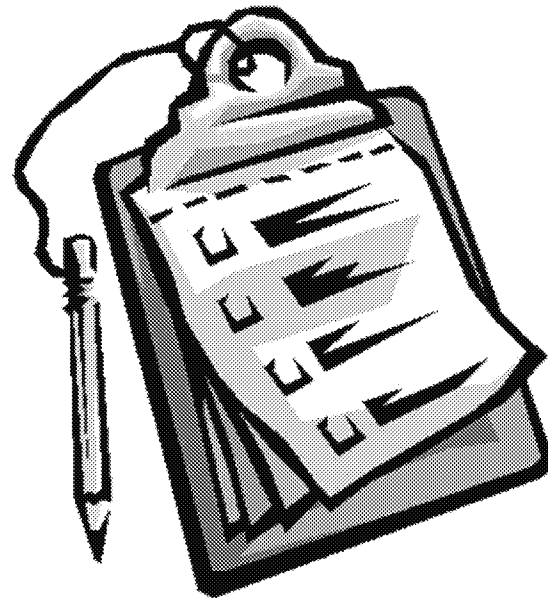
Presentation to Willamette Basin Mercury MDV Advisory Committee

June 3, 2019

DEQ Headquarters, Portland, OR

Topics

- Changes to authorization rule
- MDV rule language



Authorization rule (OAR 340-041-0059)

- Basic changes:
 - Added definition of “variance”
 - Removed statement regarding EPA approval of rule.
 - Added reference to Willamette Basin MDV
 - Changed “pollutant reduction plan” to “pollutant minimization plan” to be consistent with guidance.
 - Clarified role of director, commission and EPA in approving variances.



OAR 340-041-0059(1) - Applicability

- Changes for clarity or to remove redundant or unnecessary requirements or inconsistency with federal rule.
- Requirements for new point sources replicate similar requirements in antidegradation and TMDL rules.



OAR 340-041-0059(2) – Types of variances

- Added language regarding types of variances and responsibilities for issuance.
 - Individual (Director)
 - MDV (Commission)
 - Water body (Commission)



OAR 340-041-0059(3) - Conditions

- Changed language to be consistent with federal requirements (40 CFR 131.14(b)(1)(ii)):

“The requirements shall not result in any lowering of the currently attained ambient water quality, unless a WQS variance is necessary for restoration activities, consistent with paragraph (b)(2)(i)(A)(2) of this section.”



OAR 340-041-0059(4) - Duration

- Changed language to be consistent with federal requirements (40 CFR 131.14(b)(1)(iv)):

“The term of the WQS variance must **only be as long as necessary to achieve the highest attainable condition** and consistent with the demonstration provided in paragraph (b)(2) of this section.”



OAR 340-041-0059(6) - HAC

- Added language to be consistent with federal requirements (40 CFR 131.14(b)(1)(ii)(A) and (B))

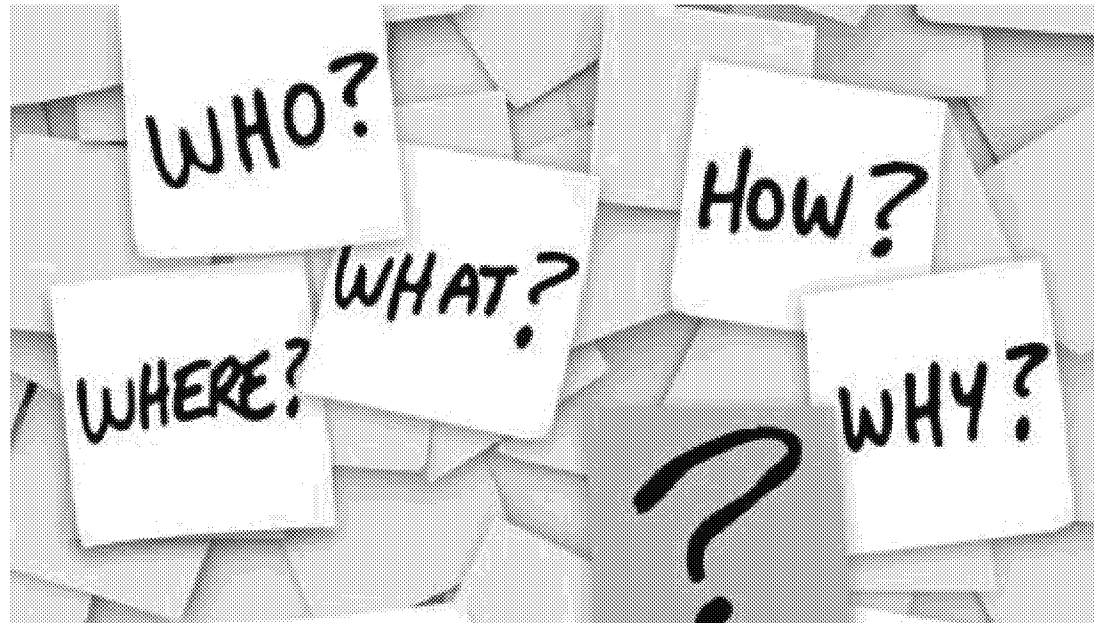


OAR 340-041-0059(7) – Permit conditions

- Permit conditions reflect Highest Attainable Condition
- Remove “concentration-based” to allow mass based limit, if warranted.
- Limit based on highest feasibly attainable effluent condition, consistent with federal wording.



Questions and Discussion



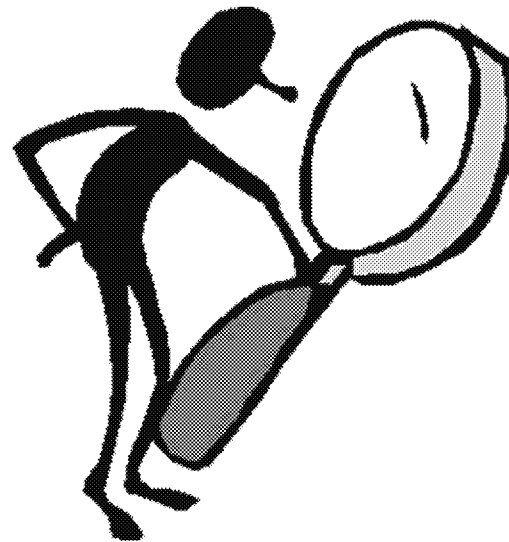
MDV rule (OAR 340-041-0345(6))

- Findings
- Term of the variance
- Application requirements
- Highest attainable condition
- Public notice
- Re-evaluation of the Highest Attainable Condition



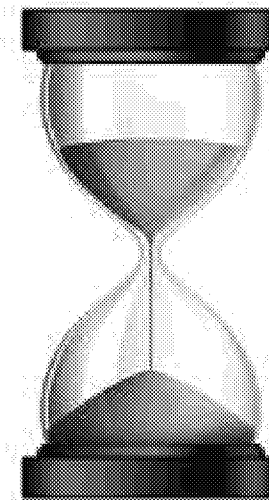
MDV rule - Findings

- Context for the rule
- Summarizes rationale for MDV.



MDV rule - term

- Twenty years from date of EPA approval.



MDV rule – application requirements

- Letter requesting coverage
- Effluent data from previous five years
- Mercury minimization plan covering **term of variance**
 - Undergoes public notice as part of variance coverage.



MDV rule – Highest Attainable Condition

- Level Currently Achievable.
 - Procedure included in variance document.
 - Permit limit procedure included as appendix.
- Mercury Minimization Plan with:
 - Monitoring plan (minimum of influent, effluent and biosolids)
 - Mercury reduction activities for term of variance
 - Some specificity for municipal and industrial dischargers.
 - Specificity for near-term activities and general for future permit cycles.
 - Annual progress reporting



MDV rule – public notice

- Concurrent with notice on draft permit



MDV rule – HAC re-evaluation

- Conducted by DEQ every five years.
- Summary of mercury reduction data and activities.
- Re-evaluation of technology feasibility.
- Public comment and EPA submittal.
- Re-calculate LCA and MMP update included during permit renewal, with public comment.



Questions and Discussion

- Specific questions for input:
 - For MMP activities, are there additional activities that should be included in or removed from rule language?
 - Have we missed anything?



DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

